

REMARKS

Claims 1-29 are pending in this application. By this amendment, claims 1, 17, 18, 25, and 26 have been amended, and new claim 29 has been added.

Claims 1, 17, 18, 25, and 26 have been amended to recite “the convex surface being hemispherical.” Support for this amended feature may be found at least in Figs. 1 and 2 of the present application as originally filed.

New claim 29 recites that “an inner surface of the wall corresponding to the convex surface is configured to define a portion of the lumen that protrudes above the first surface.” Support for this amended feature may be found at least on page 5, lines 1-4 and Figs. 1 and 2. While the specification does not explicitly describe this amended feature, it is inherent that the convex wall of the “blister-like vesicle,” which protrudes above a first surface, has an inner surface that defines the lumen above the first surface, as shown in Figs. 1 and 2.

It is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132. Accordingly, Applicants request reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

Rejections Under 35 U.S.C. §103

1. Claims 1-6 and 12-16 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over International Patent Application Publication WO 02/30401 applied for by Sheppard, et al. (“Sheppard”) in view of U.S. Patent No. 6,669,683 issued to Santini, Jr., et

al. ("Santini").

To establish an obviousness rejection under 35 U.S.C. § 103(a), four factual inquiries must be examined. The four factual inquiries include (a) determining the scope and contents of the prior art; (b) ascertaining the differences between the prior art and the claims in issue; (c) resolving the level of ordinary skill in the pertinent art; and (d) evaluating evidence of secondary consideration. *Graham v. John Deere*, 383 U.S. 1, 17-18 (1966). In view of these four factors, the analysis supporting a rejection under 35 U.S.C. 103(a) should be made explicit, and should "identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *KSR Int'l. Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007). Furthermore, even if the prior art may be combined, there must be a reasonable expectation of success, and the reference or references, when combined, must disclose or suggest all of the claim limitations. See *in re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Assuming *arguendo* that the references may be combined and a reasonable expectation of success exists, the combined references do not disclose or suggest all of the claim features. Claim 1, as amended, recites, *inter alia*:

a plurality of blister-like vesicles including a convex surface protruding above a first surface, ***the convex surface being hemispherical***, each vesicle having at least a metallic portion formed from a first metal, and each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity; (emphasis added)

In the Office Action, it is admitted that "[Sheppard], however, does not disclose that

each vesicle is electrically coupled to a switch or that the blister-like vesicles have a convex surface protruding above a first surface" (see page 4, lines 6-8). These deficiencies of Sheppard are allegedly cured by Santini, according to the Examiner. Specifically, in the section "Response to Arguments," it is concluded that "embodiments of reservoir caps disclosed in the Santini reference with convex surfaces protruding above a first surface (see above) ..." (see page 16, under heading "Response to Arguments," lines 3-5; reference to Fig. 6C of Santini).

By this amendment, claim 1 now recites "the convex surface being hemispherical" in line 5. This amended feature is not taught or suggested by Santini. Thus, even if one of ordinary skill in the art happens to combine the teachings of Sheppard and Santini, the combined references do not teach such claim feature.

Furthermore, Applicants respectfully assume that the Examiner would recognize a distinctiveness of this amended claim feature over the references because she stated that, for example, "since Applicant **has not claimed that the vesicles are hemispherical protrusions** surrounding a cavity containing a substance to be released into the body, it is the examiner's position ..." (see page 3, lines 12-14; emphasis added). Here, except for the feature "hemispherical protrusion," claim 1 already recites all of the features the Examiner mentioned above. Thus, it is reasonably inferred that the Examiner effectively suggests amending claim 1 in such a manner to overcome this rejection.

Since neither Sheppard nor Santini teaches the features of claim 1, "a plurality of blister-like vesicles including a convex surface protruding above a first surface, the convex

surface being hemispherical, each vesicle having at least a metallic portion formed from a first metal, and each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity," claim 1 is allowable over the cited prior art, whether taken alone or in combination. Claims 2-6 and 12-16 depend from claim 1, and thus are allowable for at least this reason.

New claim 29 recites that "an inner surface of the wall corresponding to the convex surface is configured to define a portion of the lumen that protrudes above the first surface." Since neither Sheppard nor Santini discloses or suggests this feature, claim 29 is allowable over the references.

2. Claims 7-11 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Sheppard in view of Santini, and in further view of U.S. Patent No. 6,293,923 issued to Yachia, *et al.* ("Yachia").

Claims 7-11 depend from claim 1. Yachia is cited by the Examiner in an attempt to teach the additional features of the dependent claims, but fails to cure the deficiencies of Sheppard and Santini as noted above with regard to claim 1. Hence, even if one of ordinary skill in the art happens to combine the teachings of Sheppard, Santini, and Yachia, this combination still does not teach all of the features recited in claim 1. Accordingly, Applicants respectfully submit that claims 7-11 are allowable over the references because they depend from allowable claim 1.

3. Claims 17-24 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Sheppard in view of Santini, and in further view of Yachia.

Claims 17 and 18 are directed to a system for treating a body cavity of an individual, reciting similar features as those of claim 1 recited above, and thus are allowable over the same references, Sheppard, Santini, and Yachia. Claims 19-24 depend from claim 18, and thus are allowable for at least this reason.

4. Claims 25-28 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Sheppard in view of Santini, and in further view of Yachia.

Claims 25 and 26 are directed to a method for releasing one or more substances into a body cavity containing an electrolyte fluid of an individual, reciting similar features as those of claim 1 recited above, and thus are allowable over the same references, Sheppard, Santini, and Yachia. Claims 27 and 28 depend from claim 25, and thus are allowable for at least this reason.

Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. §103(a) rejection of claims 1-28. Since none of the other prior art of record, whether taken alone or in any combination, discloses or suggests all the features of the claimed subject matter, Applicants respectfully submit that claims 1-28 and new claim 29 are allowable.

CONCLUSION

Applicants believe that a full and complete response has been made to the pending Office Action and respectfully submit that all of the stated grounds for rejection have been overcome or rendered moot. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative at the number below to expedite prosecution.

If an extension of time is necessary to prevent abandonment of this application and is not filed herewith, then such extension of time is hereby petitioned for under 37 C.F.R. §1.136(a). Any fees required for further extensions of time and any fees for the net addition of claims are hereby authorized to be charged to our Deposit Account No. 14-0112. Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,
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